

UNITED STATES INTERNATIONAL TRADE COMMISSION

**COMMERCIAL AVAILABILITY OF APPAREL INPUTS (2005):
EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO
CERTAIN KNITTED APPAREL OF NYLON FILAMENT YARN**

Investigation No. 332-465-010

December 2005



Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-465-010

Products	Certain knitted apparel of nylon flat filament yarn
Requesting Parties	Shibani Inwear, Mauritius
Date of Commission Report: USTR Public	December 21, 2005 December 2005
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NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR
ON DECEMBER 21, 2005. ALL CONFIDENTIAL INFORMATION HAS BEEN
REMOVED AND REPLACED WITH ASTERISKS (***)

Summary of findings

This report contains the Commission's advice for 100-percent nylon flat filament yarn named in the petition filed by Shibani Inwear of Mauritius.¹ The Commission's analysis indicates that granting duty-free treatment to U.S. imports of knitted camisoles, T-shirts, singlets, panties, and briefs produced in eligible African Growth and Opportunity Act (AGOA) countries from the subject nylon filament yarn, regardless of the source of such yarn, is likely to have little or no adverse effect on the U.S. apparel industry or its workers. There is only one known domestic producer of women's seamless undergarments; however, the nylon filament yarn currently used by the firm in these garments differs from the subject filament yarn. The Commission's analysis also indicates that the proposed preferential treatment is likely to have little or no adverse effect on U.S. knit fabric producers and their workers, as there appears to be no current U.S. production of knit fabrics of the subject yarn. There is likely to be no adverse effect on U.S. filament yarn producers or their workers, as U.S. filament yarn producers currently do not produce the subject yarn or similar yarns. The proposed action would benefit any U.S. firms making the specified garments in eligible AGOA countries from the subject yarn, and their U.S.-based workers. The proposed action is also likely to benefit U.S. consumers.

If the subject nylon filament yarns are determined to be not commercially available prior to the implementation date for the Central American Free Trade Agreement (CAFTA), the subject yarns would also be considered not commercially available for purposes of CAFTA² and any U.S. imports of apparel made in CAFTA countries from the subject yarns would be eligible for duty-free treatment. Under such a scenario, the potential effects on the U.S. industry are unknown, but could be greater than the effects of granting duty-free treatment to U.S. imports of the subject undergarments from AGOA countries.

¹ Shibani Inwear is a wholly owned Mauritian company which knits, sews, dyes, and finishes garments in Mauritius, an AGOA beneficiary country. Shibani has more than 600 employees.

² CAFTA, Chapter Three, National Treatment and Market Access for Goods, Article 3.25: Rules of Origin and Related Matters, 4(e). As of the preparation of this report, no effective date for CAFTA has been proclaimed.

Background

On January 19, 2005, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-465, *Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). Under this investigation, the Commission provides advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2005 with the Committee for the Implementation of Textile Agreements (CITA) under the “commercial availability” provisions of the AGOA, the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).³

The Commission’s advice in this report relates to a petition received by CITA on November 9, 2005, alleging that certain nylon filament yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for certain apparel made in eligible AGOA beneficiary countries from such yarns, regardless of the source of the yarns.⁴

Discussion of the product

The petition filed by Shibani Inwear of Mauritius describes the subject yarns as 100-percent nylon 66,⁵ fully-drawn flat filament yarns. These yarns are classified in the Harmonized Tariff Schedule of the United States (HTS) under subheading 5402.41.90 (statistical reporting no. 5402.41.9040). The petition states that the yarns are knitted using seamless knitting machines and then cut and sewn into certain women’s undergarments, such as camisoles, singlets, and panties. These knitted garments are classified in HTS chapter 61 (apparel), under HTS subheadings 6108.22.90 (statistical reporting number 6108.22.9020) and 6109.90.10 (statistical reporting number 6109.90.1065) and subject to 2005 U.S. general rates of duty of 15.6 percent and 32 percent ad valorem, respectively.

The subject yarn is a branded yarn called Strata produced by INVISTA, Europe. The technical description of the yarn is a “fully drawn flat yarn” made from nylon 66 comprising filament fibers with a mixture of round and trilobal cross sections.⁶ The yarn is designated as “156/71 Strata,” because it has a yarn count

³ For more information on the investigation, see the Commission’s notice of investigation published in the *Federal Register* of Jan. 26, 2005 (70 F.R. 3728) and consult the Commission’s website at www.usitc.gov/ind_econ_ana/research_ana/pres_cong/332/short_supply/shortsupintro.htm.

⁴ The President may proclaim such action if (1) he determines that the subject fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner; (2) he has obtained advice from the Commission and the appropriate advisory committee; (3) he has submitted a report, within 60 calendar days after the request, to the House Committee on Ways and Means and the Senate Committee on Finance, that sets forth the action proposed, the reasons for such action, and advice obtained; (4) a period of 60 calendar days, beginning with the day on which he has met the requirements of (3), has expired; and (5) he has consulted with such committees on the proposed action during the 60-day period referred to in (3). In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

⁵ The numbers in nylon 66 indicate that in each of the two chemicals used in the manufacture of this nylon, there are 6 carbon atoms. There are other types of nylons which have a different number of carbon atoms, such as nylon 6,10. Information sourced from Marjory L. Joseph, *Introductory Textile Science*, 2nd Edition, Holt, Rinehart and Winston, Inc., New York, 1966, 1972, p. 116.

⁶ E-mail from Alan Fellingham, Shibani Inwear, Mauritius, received by Commission staff, Dec. 5, 2005, p. 1.

of 156 decitex (140 denier)⁷ and consists of 71 filaments, of which 51 have trilobal cross sections⁸ and 20 have round cross sections.⁹ Combining filaments with different cross sections creates a yarn with different light reflectance properties than a yarn made of filament fibers that have the same cross sections. Because of this combination of different cross sections within one filament yarn, apparel knit of the subject yarn, after dyeing, has a “unique subtle luster” (as required by the petitioner’s client).¹⁰ The presence of the two different cross sections of the filaments in the filament yarn reportedly makes the subject yarns unique. The lustrous effect of knitted garments made from the subject yarns is the result of the light reflectance properties created by the use of different cross sections in the yarns, not the result of differences in the dye-uptake of different fibers in the yarns.¹¹ None of the industry sources contacted disagreed with these assertions of the petitioner.¹² According to the petitioner, yarns made by blending together two or more fibers with different dye-uptakes cannot achieve the special subtle luster of knitted garments made from the subject yarns.¹³ Reportedly, the cost of producing the subject yarn is high owing to the cost of manufacturing the spinnerets used to produce the yarn. Such spinnerets have extrusion holes with different shapes, while most spinnerets are made with holes of uniform shape.¹⁴ As a result, the subject yarn is priced considerably higher than other filament yarns.

The petitioner, Shibani Inwear, also differentiates its knitted garments made of the subject yarns by using Santoni seamless knitting machines.¹⁵ The Santoni machines knit one finished “body blank” at a time, ejecting each one from the machine as it is completed. Thus, there are no sewn seams in the body part of a camisole, and only the straps of the camisole or any trim would have to be sewn on. The machines also can be adjusted to knit garments of specific sizes. The traditional circular weft knitting machines knit a continuous type of tube from which all the garment pieces of the body are cut and sewn, resulting in considerably more seams in the knitted garment. The Santoni machines are high-priced knitting machines capable of producing intricate designs. Shibani also knits the subject fabrics and body blanks using a knitting technique known as “plaiting” (or “plating”). Plaiting occurs when two yarns, the subject yarn and a stretch yarn such as Lycra, are fed through the knitting needles at the same time. The subject nylon yarn will appear on the outside of the fabric or garment and the Lycra or other type of stretch yarn will appear on the reverse of the fabric. This results in a uniform appearance to the garment. The combination of seamless knitting with the Strata 156/71 yarn and use of the plaiting technique serves to make Shibani’s apparel unique from what is reported to be produced in the United States.¹⁶

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⁷ In the case of a filament yarn, the relationship of yarn count and thickness of the yarn is the higher the number for decitex and denier, the finer the filament.

⁸ The cross section of a filament fiber refers to the actual shape of the fiber. In this case, a trilobal cross section indicates that the filament fiber has a rounded triangular shape, while a round cross section indicates that the filament has a circular shape.

⁹ INVISTA recently changed the Strata yarn to 156/72 by adding one filament to the previous 71 total. E-mail from Alan Fellingham, Shibani Inwear, Mauritius, received by Commission staff, Dec. 5, 2005, p. 1.

¹⁰ Petition from Shibani Inwear of Mauritius submitted to CITA, “Ref: Commercial Availability Request Under African Growth and Opportunity Act (AGOA) Short Supply – Textile Filament Yarn,” Nov. 9, 2005, p. 4.

¹¹ Ibid.

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¹³ Ibid.

¹⁴ Ibid., Mary Vane, INVISTA, telephone interview by Commission staff, Nov. 23, 2005.

¹⁵ All the discussion in this paragraph is from an e-mail message from Alan Fellingham, Shibani Inwear, Mauritius, received by Commission staff, Dec. 5, 2005, pp. 2-4.

¹⁶ The petitioner produces undergarments using seamless knitting machines using a plaiting technique. However, the proposed preferential treatment would grant duty-free treatment to imports of garments produced from the subject yarn using other techniques, in particular garments that are cut and sewn.

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Discussion of affected U.S. industries, workers, and consumers

Apparel producers

Acme McCrary Corp. is the only known U.S. producer of women's seamless knit undergarments of a kind similar to those made by the petitioner. Although Acme McCrary said it currently does not use the subject yarn, it indicated that it is using the same seamless knitting technology as the petitioner.¹⁸ Acme McCrary stated that it has recently invested in this seamless knitting technology to produce intimate apparel and activewear. ***

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*Fabric producers*²¹

Four U.S. producers of knit fabrics contacted by Commission staff²² reported that they do not produce knit fabrics similar to the fabrics knitted from the subject yarn. ***23***24***25***26***27***28***

Yarn producers

Commission staff contacted four U.S. filament yarn producers, other than INVISTA, identified by industry sources as possible domestic sources of filament yarns that might be similar to the subject yarn: Premier Fibers, Stanley, NC; Nylstar, Greensboro, NC; Unifi-Sans, Gastonia, NC; and Unifi, Inc., Greensboro, NC. Premier Fibers is a domestic producer of specialty nylon 66 yarns and other specialty fibers for the high end of the yarn market and produces filament yarns consisting of fibers with trilobal cross sections and yarns of bright colors.²⁹ ***30*** Unifi, Inc. submitted a statement to CITA indicating that Unifi does not produce the subject yarns.³¹

Probable economic effect advice³²

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of women's camisoles, T-shirts, singlets, panties, and briefs produced in eligible AGOA countries from the subject nylon filament yarns, regardless of the source of such yarns, is likely to have little or no adverse effect on the U.S. apparel industry or its workers. There is only one known domestic producer of women's seamless undergarments; however, the nylon filament yarn currently used by the firm in these garments

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²¹ Acme McCrary Corp. produces the subject apparel directly from yarn and therefore does not purchase or produce the fabric separately.

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²⁶ Most of the U.S. knit fabric producers manufacture circular knits from which garment parts are cut and then sewn. These circular knits are not the same product as the body blanks, for example, produced by Shibani using the seamless knitting technology.

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³¹ Jane Johnson, Government Relations Manager, Unifi, Inc., submission to CITA, Nov. 21, 2005.

³² The Commission's advice is based on information currently available to the Commission.

differs from the subject filament yarn. Industry sources contacted agreed that comparable garments would require the subject yarns in order to create the unique subtle lustrous appearance.

The Commission's analysis indicates that the proposed preferential treatment is likely to have little or no adverse effect on U.S. knit fabric producers and their workers, as there appears to be no current U.S. production of knit fabrics produced with the subject yarn. U.S. knit fabric producers that indicated they could produce a fabric similar to the subject fabric also reported that they were currently not producing such a fabric and had no plans to produce it. *** The available trade data indicate that even with preferential treatment under the AGOA, AGOA countries supply a considerably smaller share of the U.S. market for these women's undergarments than the Caribbean Basin and Andean countries. Therefore, no significant displacement of U.S.-produced knit fabrics sent to women's undergarment producers in the Western Hemisphere is likely.

The Commission's analysis indicates that the proposed preferential treatment is likely to have no adverse effect on the U.S. filament yarn industry or its workers. Although U.S. filament yarn producers reported that they could make a similar yarn, none of the companies had plans to make such a yarn. ***

The proposed action would benefit any U.S. firms making the specified garments in eligible AGOA countries from the subject yarns, and their U.S.-based workers. The proposed action would also likely benefit U.S. consumers to the extent that duty savings are passed on by garment producers.

If CITA makes a determination before the implementation of CAFTA that the subject nylon filament yarns are not commercially available, the subject yarns would also be considered not commercially available for purposes of CAFTA³³ and any U.S. imports of apparel made in CAFTA countries from the subject yarns would be eligible for duty-free treatment. Under such a scenario, the potential effects on U.S. industry are unknown, but could be greater than the effects of granting duty-free treatment to U.S. imports of the subject undergarments from AGOA countries. Caribbean Basin and Andean countries supply a considerably larger share of the U.S. market for the subject women's undergarments than the AGOA countries. Specifically, in 2004 CAFTA countries supplied approximately 20 percent of the total quantity of U.S. imports of these women's undergarments. The Commission does not know whether there are any producers in the CAFTA countries that use the seamless knitting technology.

³³ CAFTA, Chapter Three, National Treatment and Market Access for Goods, Article 3.25: Rules of Origin and Related Matters, 4(e).